S.B. Civil Writ Petition No.4086/06
Shyam Sunder Dubey Vs. RSRTC & Anr.

Date of Order : 29/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Arvind Bhardwaj, for petitioner

By the instant writ petition, the petitioner has challenged the validity of order Ann.2 23rd January, 1996 whereby he was removed from service after holding a regular departmental inquiry and appeal preferred by him was also rejected by the appellate authority vide Ann.3.

The basic charge levelled against the petitioner was wilful absence from duty which was on account of his transfer from Dholpur to Alwar vide order dt.15th September, 1992, he was to report for duty on or before on 23rd September, 1992, but he failed to submit joining report, failing which a regular inquiry was initiated and during the course of inquiry despite notice served, the petitioner failed to participate and finally the disciplinary authority held him guilty for wilful absence from duty from 23rd September, 1992 and consequently, punished with the penalty of removal from service vide Ann.2 dt.23rd January, 1996. Against which, the petitioner preferred appeal and the appellate authority also dismissed the appeal vide order Ann.3 dt.14th July, 1997.

The present writ petition has been filed against the said impugned order on 19th April, 2006 and on a specific question put to the counsel for such inordinate delay in filing of present writ petition, counsel submits that petitioner sometime approached by filing representation or as per legal advice extended to him he approached to the conciliation officer as well. No

material has been placed on record justifying for inordinate delay which has been caused in filing of present writ petition and in my opinion, the delay which remained unexplained dis-entitles the petitioner from availing extraordinary remedy available under Article 226 of the Constitution.

Counsel further submits that he may be permitted to make representation re-apprising the authority, in my opinion, the petitioner is always free to make representation, if so advised.

Consequently, the writ petition fails and is hereby dismissed in limine.

[Ajay Rastogi],J.

FRB